

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ADVANCED CAPITAL COMMERCIAL
GROUP, INC.,

Plaintiff,

-against-

ORDER

09 CV 5558 (DRH) (GRB)

JOSEPH SUAREZ a/k/a JOSE GILBERTO
SUAREZ, JR., SUAREZ INVESTMENTS
& DEVELOPMENT, L.L.C., KATHERINE
FERRO, and LAW OFFICES OF
KATHERINE FERRO, P.A.,

Defendants.

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HURLEY, Senior District Judge:

Plaintiff Advanced Capital Commercial Group, Inc. (“Advanced Capital” or “plaintiff”) commenced this action against Joseph Suarez, also known as Jose Gilberto Suarez, Jr., Suarez Investments & Development, L.L.C., Katherine Ferro, and the Law Offices of Katherine Ferro, P.A. (collectively, “defendants”) for breach of contract, fraud, unjust enrichment, and conversion. After defendants’ default was noted by the Clerk of Court pursuant to Federal Rule of Civil Procedure (“Rule”) 55(a), plaintiff moved for entry of a default judgment under Rule 55(b). On November 28, 2012, plaintiff’s motion was referred to United States Magistrate Judge Gary R. Brown to issue a Report and Recommendation as to whether plaintiff had demonstrated that the allegations in the Complaint established the defendants’ liability such that the motion for default should be granted, and if so, to determine the appropriate amount of damages, costs, and/or fees, if any, to be awarded. On August 30, 2013, Judge Brown issued a Report and Recommendation which recommended that plaintiff’s motion for a default judgment be granted in all respects, and that plaintiff be awarded the amount of \$500,000.00 plus pre-judgment

interest, calculated from July 9, 2012, at the New York statutory rate of 9%. On September 20, 2013, the Court adopted Judge Brown's August 30, 2013 Report and Recommendation. On October 15, 2013, Judge Brown issued a Sua Sponte Report and Recommendation which recommended that the August 30, 2013 Report and Recommendation be amended because of a typographical error, and that plaintiff be awarded the amount of \$500,000.00 plus pre-judgment interest, calculated from July 12, 2009, at the New York statutory rate of 9%. More than fourteen days have elapsed since service of the Report and Recommendation and no party has filed an objection.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the October 15, 2013 Sua Sponte Report and Recommendation for clear error, and finding none, now concurs in both its reasoning and its result. Accordingly, the October 15, 2013 Report and Recommendation is adopted as if set forth herein. The Court hereby directs that the judgment entered by the Clerk of the Court on September 25, 2013 be modified such that pre-judgment interest be calculated from July 12, 2009 through the date of judgment at the New York statutory rate of 9%.

SO ORDERED.

Dated: Central Islip, New York
October 31, 2013

/s/
Denis R. Hurley
United States District Judge